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7 **IN THE UNITED STATES DISTRICT COURT FOR**
8 **THE WESTERN DISTRICT OF WASHINGTON**

9 THURSTON MYERS,

No.

10 Plaintiff,

COMPLAINT

11 v.

With Jury Demand

12 SERGEANT THOMAS J. BROOKS and
13 JANE DOE BROOKS and the marital
14 community comprised thereof; DETECTIVE
15 SERGEANT JEFFREY MASON and JANE
16 DOE MASON and the marital community
17 comprised thereof; DETECTIVE COREY
18 WILLIAMS and JANE DOE WILLIAMS and
19 the marital community comprised thereof;
20 JOHN & JANE DOES 1- 34; POLICE CHIEF
STEVEN JENSEN and JANE DOE JENSEN
and the marital community comprised thereof;
and the CITY OF LYNWOOD, a municipal
corporation,

Defendants.

21 COMES NOW the plaintiff, Thurston Myers, through his attorneys of record, Kannin
22 Law Firm P.S., and hereby presents the following claims:

23 **JURISDICTION**

24 1.

25 COMPLAINT - Page 1

26
KANNIN LAW FIRM P.S.
119 SW 152nd Street
Burien, Washington 98166
T. (206) 574-0202
F. (206) 574-0101

1 Jurisdiction is founded upon the existence of a federal question.

2 2.

3 This is an action to redress the deprivation under color of statute, ordinance, regulation,
4 custom or usage of rights, privileges, and immunities secured to the plaintiff by the Fourth,
5 Eighth, and Fourteenth Amendments to the Constitution of the United States (42 U.S.C. § 1983).

6 3.

7 Jurisdiction is founded upon 28 U.S.C. § 1331 and § 1343(3) and (4).

8 4.

9
10 Venue is proper in the United States District Court of the Western District of Washington
11 because the acts or omissions which for the basis of the Plaintiff's claims occurred in Snohomish
12 County, Washington and the defendants are believed to reside in Washington State

13 5.

14 At all times relevant to this complaint, Plaintiff was an individual residing in Snohomish
15 County, Washington.

16 6.

17 Plaintiff sues defendants BROOKS, MASON, AND WILLIAMS and JOHN/JANE DOE
18 1 – 34, in their individual and official capacities.

19 7.

20 At all times referred to herein, Defendant THOMAS J. BROOKS was a City of
21 Lynwood, Washington Police Officer #492, employed by the City of Lynnwood and assigned to
22 the South Snohomish County Drug Task Force.

23 8.

24 At all times referred to herein, Defendant JEFFREY MASON was a City of Lynwood,

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26
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1 Washington Detective Sergeant #1305, employed by the City of Lynnwood and assigned to the
2 South Snohomish County Drug Task Force;

3 9.

4 At all times referred to herein, Defendants JEFFREY MASON was a City of Lynnwood,
5 Washington Detective Sergeant #1305, employed by the City of Lynnwood and assigned to the
6 South Snohomish County Drug Task Force;

7
8 10.

9 At all times referred to herein, Defendants JOHN & JANE DOES 1 – 34 are believed to
10 be police officers of City of Lynnwood, employed by the City of Lynnwood, and/or other police
11 agencies employed by other municipal corporations or government agencies, all of whom were
12 assigned to the South Snohomish County Drug Task Force, along with other individuals
13 employed by the City of Lynnwood who appeared at the Plaintiff's home to carry out the
14 Plaintiff's arrest and seizure of Plaintiff's property described herein.

15
16 11.

17 At all times referred to herein, Defendant STEVEN JENSEN, City of Lynnwood Police
18 Chief, was employed by City of Lynnwood and its Police Department as the chief of police of
19 the City of Lynnwood, and is believed to have been the supervising and commanding officer of
20 Defendants BROOKS, MASON, and WILLIAMS and some of the JOHN/JANE DOES.

21 12.

22 Defendant CITY OF LYNNWOOD is a municipal corporation and local government
23 conducting its operations within the State of Washington in Snohomish County.

24 **FACTS**

25 13.

1 In July 2015, Plaintiff Thurston Myers lived in Lynnwood, Washington at 7514 204th
2 Street Southwest (SW).

3 14.

4 On his property at 7514 204th Street SW Mr. Myers had two large metal shipping
5 containers that he had purchased and converted into storage buildings. Each of the container
6 buildings had electrical wiring systems installed that connected the container buildings to the
7 local electrical power grid in the City of Lynnwood, Washington. Additionally, Myers installed
8 heating, ventilation, and air conditioning (HVAC) systems, an air purification system, and light
9 emitting diode (LED) lighting systems in each of the container buildings

10 15.

11 Plaintiff Myers used the container buildings for storage. Plaintiff Myers kept tools,
12 appliances, lights, air filtration equipment, documents, gardening supplies/chemicals, and
13 marijuana plants inside of the container buildings.

14 16.

15 On or about July 22, 2015, defendant Brooks, Mason and Williams appeared at plaintiff
16 Myers' home at 7514 204th Street Southwest (SW) in Lynnwood, Washington along with
17 approximately thirty-four (34) other police officers/law enforcement personnel and City of
18 Lynwood employees (Defendant John Does s 1 – 34). The defendants presented a search warrant
19 document to the plaintiff, informed plaintiff Myers that they were there to confiscate his
20 property. The defendants seized plaintiff Myers' storage buildings and all the contents within
21 them. The defendants arrested plaintiff Myers and took him to jail.

22 17.

23 To take the Plaintiff's storage buildings away the Defendants first emptied them of all the
24 plaintiff's property that was inside of the buildings. Next the defendants loaded plaintiff's
25 moveable property into trucks. The defendants had to disconnect the buildings from the City's

26 COMPLAINT - Page 4

1 electrical power grid, and disconnect the heating, ventilation and air conditioning (HVAC)
2 systems. Parts of the HVAC system were located outside the container buildings on a concrete
3 pad. These large HVAC appliances were seized along with the contents inside each container
4 building. After disconnecting each of the container buildings' HVAC systems the defendants
5 loaded this property into trucks. Additionally, there were numerous large stainless steel tied
6 down points embedded in concrete that secured the storage container building to the concrete
7 foundation in plaintiff's yard upon which the container building was built. The defendants
8 cut/broke loose the ties down points thus allowing them to move the container buildings. The
9 defendants used cranes to lift the container buildings off their foundation, loaded the container
10 buildings onto trucks and took plaintiff's container buildings away.

11 18.
12

13 The defendants caused Plaintiff Myers to be booked into the Snohomish County jail.
14 Myers was eventually released after posting bail. A criminal case was started against the
15 plaintiff in the Snohomish County Superior Court alleging the plaintiff was unlawfully
16 manufacturing marijuana. This criminal against Plaintiff Myers was dismissed on or about
17 January 17, 2018.

18 19.
19

20 On July 22, 2015 it was the policy practice and custom of the City of Lynnwood to seize
21 the property of those individuals residing within its city limits who were growing and or
22 maintaining marijuana in what was known as a collective garden and it was the City's policy
23 practice and custom to ratify the conduct of its employees who carried out such seizures.
24 Plaintiff alleges this home activity occurring at his home, his collective marijuana garden, was
25 not illegal in the State of Washington and that the Washington State legislature enacted
26 legislation that allowed plaintiff to grow a marijuana collective garden in the City of Lynnwood,

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1 Snohomish County, Washington.

2 20.

3
4 On July 22, 2015, Defendant STEVEN JENSEN, City of Lynnwood Police Chief, was
5 employed by City of Lynnwood and its Police Department as the chief of police of the City of
6 Lynnwood, and is believed to have been the supervising and commanding officer of Defendants
7 BROOKS, MASON, and WILLIAMS and some of the JOHN/JANE DOES. Defendant JENSEN
8 was the City of Lynnwood employee responsible for ensuring defendants BROOKS, MASON,
9 and WILLIAMS and the JOHN/JANE DOES who worked for the City of Lynnwood, were
10 adequately and lawfully trained and supervised when carrying out their duties on behalf of the
11 Defendant CITY OF LYNNWOOD.
12

13
14 21.

15 As the Chief of the City of Lynnwood police department and as the Chief officer
16 Defendant JENSEN was the supervising and commanding officer of Defendants BRIAN
17 HEIMANN, BILL FOSTER, PETER TURNER, and MARTIN ZURFLUH. Defendant PAUL
18 PASTOR was County of Pierce employee responsible for training and supervising the
19 Defendants BROOKS, MASON, and WILLIAMS and the JOHN/JANE DOES who worked for
20 the City of Lynnwood, and the City of Lynnwood employee responsible for ensuring defendants
21 BROOKS, MASON, and WILLIAMS and the JOHN/JANE DOES who worked for the City of
22 Lynnwood were adequately and lawfully trained and supervised when carrying out their duties
23 on behalf of the Defendant CITY OF LYNNWOOD.
24

25 22.

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1 Defendant JENSEN is believed to be defendant CITY OF LYNNWOOD's chief policy
2 maker regarding implementing the City of Lynnwood's Police Department and the City's use of
3 its police force and its arrest powers to enact its policies, practices and customs. Defendant
4 JENSEN along with other unknown policy makers are further believed to be defendant City of
5 Lynnwood's representatives who ultimately approved, and/or ratified the other Defendants' use
6 of police force to seize Plaintiff MYERS and his property.

7 23.

8 The Defendants have not returned Plaintiff MYERS' property. Plaintiff MYERS expects
9 to incur additional expenses and suffer future damages to recover and restore his property to the
10 condition it was before the Defendants' unlawful seizure.

11 24.

12 The Defendants caused Plaintiff Evans to suffer lost wages and income as a direct and
13 proximate result of the injuries and harms they caused him to suffer. The Defendants' acts and
14 failures to act caused Plaintiff Myers to suffer damages in an amount to be proven at trial.

15 25.

16 As a direct and proximate result of the said acts of the Defendants caused the Plaintiff
17 THURSTON MYERS to suffer the following injuries and damages:
18

19 a. Violation of his constitutional rights under the Fourth and Fourteenth Amendments to
20 the United States Constitution to be free from an unreasonable search and seizure of his person
21 and his property;

22 b. Violation of his constitutional rights under the Eighth and Fourteenth Amendments to
23 the United States Constitution to be free from cruel and unusual punishment;

24 c. Economic and non-economic damages incurred and expected to be incurred, in an
25

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1 amount to be established at trial.

2
3 **FIRST CLAIM: UNDER 42 U.S.C § 1983 AGAINST DEFENDANTS THOMAS J.**
4 **BROOKS, JEFFREY MASON, AND COREY WILLIAMS & JOHN/JANE DOE**
5 **DEFENDANTS 1- 34 IN THEIR INDIVIDUAL CAPACITIES**
6 **(ILLEGAL PROPERTY SEIZURE)**

7 26.

8 Plaintiff re-alleges paragraphs 1 through 25 above.

9 27.

10 42 U.S.C. § 1983 provides in part:

11 Every person who, under color of any statute, ordinance, regulation, custom, or usage of
12 any State or Territory subjects, or causes to be subjected, any person of the United States or other
13 person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities
14 secured by the Constitution and laws shall be liable to the party injured in an action at law, suit at
15 equity or other proper proceeding for redress.

16 28.

17 Plaintiff Myers had a firmly established right under the Fourth Amendment forbidding
18 unlawful and unreasonable seizure of his personal and real property and granting him the rights
19 to be free from the government's use of force to take his property and to cause plaintiff to suffer
20 harms caused by the defendants' seizure of plaintiff's property.

21 22.

22 Defendants breached the aforementioned duty to refrain from depriving plaintiff of his
23 constitutional rights by appearing at plaintiff Myers' home on July 22, 2015, entering his home,
24 seizing his property and taking it away which constituted a violation of plaintiff's clearly-
25 established rights under the Fourth and Fourteenth Amendments to the Constitution of the United

1 States, forbidding unlawful and unreasonable seizure of a citizen's property, here plaintiff's
2 container buildings in his backyard and all of the contents within his container buildings and
3 connected to the buildings.

4
5 29.

6 Defendants were, at all times material herein, performing their duties as employees for
7 Defendant City of Lynnwood.

8 30.

9 Plaintiff was subjected to loss of his property, physical frustration, mental anguish, loss
10 of enjoyment of life, and fear by the illegal acts of defendants and claims damages, attorney fees,
11 and punitive damages for the injuries set forth herein under 42 U.S.C. § 1983 against Defendants
12 BROOKS, MASON, WILLIAMS, JENSEN and JOHN/JANE DOES 1- 34 for violation of his
13 constitutional rights under color of law.

14 31.

15 At the time they breached their duties to plaintiff, the defendants THOMAS BROOKS,
16 JEFFREY MASON, and COREY WILLIAMS and JOHN/JANE DOES 1- 34 acted under color
17 of law and were employed by Defendant City of Lynnwood.

18 32.

19 Plaintiff Evans claims damages for the injuries and harms set forth above under 42
20 U.S.C. § 1983 against Defendants BROOKS, MASON, WILLIAMS AND JOHN/JANE DOES
21 1- 34 for violation of his constitutional rights under color of law in an amount to be proven at
22 trial.

23 33.

24 The Defendants' conduct was knowing, intentional, reckless and malicious, by reason of
25 which Plaintiff is entitled to punitive damages.

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**SECOND CLAIM UNDER 42 U.S.C § 1983 AGAINST DEFENDANTS AGAINST
DEFENDANTS THOMAS J. BROOKS, JEFFREY MASON, AND COREY WILLIAMS
& JOHN/JANE DOE DEFENDANTS 1- 34 FOR VIOLATION OF PLAINTIFF'S 4th AND
14th AMENDMENT RIGHTS
(ARREST WITHOUT PROBABLE CAUSE)**

34.

Plaintiff re-alleges paragraphs 1 through 33 above.

35.

42 U.S.C. § 1983 provides in part:

Every person who, under color of any statute, ordinance, regulation, custom, or usage of any State or Territory subjects, or causes to be subjected, any person of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws shall be liable to the party injured in an action at law, suit at equity or other proper proceeding for redress.

36.

Plaintiff Myers had firmly established rights under the Fourth Amendment forbidding unlawful and unreasonable seizure of his person granting him the rights to be free from being arrested without probable cause that he committed a crime as well as an established right to be free from an unlawful arrest and/or or seizure of his person.

37.

At all times material herein, Defendants BROOKS, MASON, WILLIAMS, and JOHN/JANE DOES 1- 34 acting under color of state law, had a duty to refrain from depriving plaintiff Myers of his constitutional rights. Defendants BROOKS, MASON, WILLIAMS and JOHN/JANE DOES 1- 34 breached the aforementioned statute and breached their legal duties to refrain from depriving plaintiff of his constitutional rights by illegally arresting Mr. Myers

1 without a warrant and/or without probable cause, on July 22, 2015, which constituted a violation
2 of plaintiff's clearly-established rights under the Fourth and Fourteenth Amendments to the
3 Constitution of the United States, forbidding unlawful and unreasonable seizures.

4 38.

5 At the time they breached their duties to Plaintiff, the Defendants acted under color of
6 law.

7 39.

8 Defendants' acts and failures to act caused plaintiff to suffer harms, losses, humiliation,
9 and fear as a direct and proximate result of the Defendants' acts and failures to act and hereby
10 claims damages for the injuries set forth herein under 42 U.S.C. § 1983 against Defendants
11 THOMAS BROOKS, JEFFREY MASON, COREY WILLIAMS and JOHN/JANE DOES 1- 34
12 for violation of his constitutional rights under color of law, in amount to be proven at trial.

13
14 40.

15 The Defendants' conduct was knowing, intentional, reckless, and/or malicious, by reason
16 of which Plaintiff is entitled to punitive damages.

17
18 **THIRD CLAIM: UNDER 42 U.S.C § 1983 AGAINST THE MUNICIPAL**
19 **CORPORATION CITY OF LYNNWOOD & POLICE CHIEF STEVEN JENSEN IN HIS**
20 **OFFICIAL CAPACITY AS SUPERVISOR AND POLICY MAKER AND JOHN/JANE**
21 **DOE MUNICIPAL POLICY MAKERS FOR VIOLATION OF PLAINTIFF'S FOURTH,**
EIGHTH AND FOURTEENTH AMENDMENT RIGHTS
UNCONSTITUTIONAL POLICY PRACTICE OR CUSTOM

22 **(PROPERTY SEIZURE WITHOUT PROBABLE CAUSE - ARREST WITHOUT**
23 **PROBABLE CAUSE - CRUEL & UNUSUAL PUNISHMENT – SEIZED PROPERTY**
NEVER RETURNED AFTER CRIMINAL CASE DISMISSED)

24 41.

1 Plaintiff realleges paragraphs 1 through 40 above.

2 42.

3 Prior to JULY 22, 2015, Defendant MUNICIPAL CORPORATION CITY OF
4 LYNWOOD, developed and maintained policies, practices, or customs, by and through
5 Defendant STEVEN JENSEN, its Police Department's chief supervisor and policy maker and
6 other JOHN DOE/JANE DOE municipal policymakers, whose identities are presently unknown,
7 all exhibiting deliberate indifference to the constitutional rights of persons in the City of
8 Lynnwood, which caused the violation of plaintiff Myers' rights

9 43.

10 At the time of the incident involving plaintiff Myers it is believed that it was the policy,
11 practice, or custom of CITY OF LYNNWOOD to fail to ensure its employees did not unlawfully
12 arrest people at liberty involved with the collective gardening of marijuana, and further did not
13 have adequate screening of employees or adequate training, or supervision of its employees after
14 they were hired so that they knew about collective gardening of marijuana and what laws applied
15 to it. City of Lynnwood did not require appropriate in-service training or retraining of officers
16 and employees who violated the plaintiff's rights. City of Lynnwood did not require appropriate
17 in-service training or retraining of officers and employees who were known to have engaged in
18 Constitutional misconduct. City of Lynnwood did not discipline its officers and employees who
19 knew or reasonably should have known to have engaged in Constitutional misconduct. Upon
20 information and belief, the defendant City of Lynnwood knew or should have known of the
21 propensities of Defendants THOMAS BROOKS, JEFFREY MASON, and COREY WILLIAMS
22 and other JOHN/JANE DOE employees who participated in the unlawful seizure of the Plaintiff
23 and his property, whose identities are presently unknown, and further, took no steps to train
24 them, correct their abuse of authority, or discourage their unlawful use of authority.

1 44

2 Because of the above described policies, practices, and customs, police officers and
 3 employees of City of Lynnwood, including the defendant officers, believed that their actions or
 4 inactions would not be properly monitored by supervisory authority and that the Defendants'
 5 misconduct would not be investigated or sanctioned but would be tolerated and/or ratified by
 6 Defendant Chief Jensen, other Doe supervisory and policy makers, and/or the City of Lynnwood.

7 45.

8 The above described policies, practices, and customs of City of Lynnwood demonstrated
 9 indifference to the constitutional rights of persons within City of Lynnwood and were a cause of
 10 the violations of Plaintiff's Fourth Amendment rights, as alleged herein.

11 46.

12 Plaintiff Myers's claims damages for the injuries set forth above under 42 U.S.C. § 1983
 13 against defendant City of Lynnwood for violation of his constitutional rights under color of law
 14 in an amount to be proven at trial.

15 47.

16 JURY DEMAND

17 The Plaintiff respectfully requests trial by jury.

18 RELIEF REQUESTED

19 WHEREFORE, the Plaintiff prays for judgment in an amount to be established at trial,
 20 including:

- 21 a. Economic damages to Plaintiff against the Defendants jointly and severally;
- 22 b. Non-economic damages to Plaintiff against the Defendants jointly and severally;

- 1 c. Reasonable attorney's fees and costs to the Plaintiff under 42 U.S.C. § 1988;
2 d. Costs of this action to the Plaintiff under RCW 4.84 other applicable state and federal
3 statutes and rules;
4 e. Punitive damages; and
5 f. Such other relief as this court may deem equitable.
6

7 DATED this 16th day of July 2018.

8 KANNIN LAW FIRM P.S.

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12 John Kannin, WSBA #27315
13 Attorney for Plaintiff
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